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 PATENT COOPERATION TREATY

From the
 INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:	TO: <u>RAH</u>
CASE NUMBER <u>11052P3 WO</u>	
HYDE, Robert, Alan RECKITT BENCKISER Inc Morris Corporate Center IV 399 Interpace Parkway Parsippany - New Jersey 07054 ETATS-UNIS D'AMERIQUE	SEARCHED <u>dmr</u> CORDED <u>dmr</u> INVOICE ACKNOW
RENEWALS	
Applicant's or agent's file reference <u>11052P3 WO/RH</u>	REPLY DUE

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WRITTEN OPINION
 (PCT Rule 66)

27 JUL

27.04.2004

International application No. <u>PCT/GB 03/03047</u>	International filing date (day/month/year) <u>14.07.2003</u>	Priority date (day/month/year) <u>24.07.2002</u>
International Patent Classification (IPC) or both national classification and IPC <u>C11D3/48</u>		
Applicant <u>RECKITT BENCKISER INC</u>		

- This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application
- The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
 For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
 For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 24.11.2004

Name and mailing address of the international preliminary examining authority:  European Patent Office - P.O. Box 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016
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Authorized Officer <u>Neys, P</u> Formalities officer (incl. extension of time limits) <u>Rossi, C</u> Telephone No. +31 70 340-3322
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-27 as originally filed

Claims, Numbers

1-12 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

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Novelty (N) Claims 1-9,12

Inventive step (IS) Claims 10

Industrial applicability (IA) Claims

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1: EP-A-0691397
D2: WO-A-9919438
D3: US-A1-2002058603
D4: EP-A-0651048
D5: GB-A-2336371
D6: WO-A-0119944
D7: WO-A-8605509
D8: US-A-6017869
D9: US-B1-6395698
D10: GB-A-2346375
D11: EP-A-0651049

1. **D1-D11** (D1: claims; examples; page 4, lines 16-45; page 3, lines 37-55 ; D2: examples 20-25; page 23, lines 22-28; D3: claims 1, 2, 4 and 5; examples; D4: claims; examples; page 2, line 34 - page 3, line 35; D5: claims 1-6 , 10 and 11; examples; page 21, lines 3-30; page 23, lines 1-10; page 18, line 14- page 19, line 10; page 5, line 25- page 8, line 19; D6: examples 2 and 3; D7: claims; example 1; page 16, line 23; page 13, line 18 - page 14, line 22; D8: claims; examples; column 13, lines 27-45; column 4, line 3 - column 5, line 57; D9: claims 1-10, 15-18 and 20; examples 3 and 4; column 5, line 43 - column 6, line 67; D10: claims 1, 8, 9, 12-15 and 18; examples 3-7; page 9, line 3 - page 12, line 26; page 16, lines 29-31; D11: claims 1-3 and 6; examples;) all disclose cleaning compositions comprising a cationic surfactant having germicidal properties, a nonionic surfactant, a chelating as defined in claim 1 and water.

The subject-matter of claims 1 is therefore not novel over any of the documents D1-D11 (Article 33(2) PCT).

2. The compositions of D1-D11 all comprise a ethoxylated alcohol as nonionic surfactant. The subject-matter of claim 2 is thus also not novel in view of D1-D11.
3. A combination of ethoxylated alcohol surfactant and an amine oxide surfactant is

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disclosed in D1-D4. The subject-matter of claim 3 is therefore not novel.

4. D1-D11 disclose all the use of a chelating agent as described in claim 4, which therefore lacks novelty.
5. The compositions of D1-D3, D5-D9 discloses the use of the specific chelating agents of claim 5 . Claim 5 is not novel.
6. The compositions of D5-D8 can be used in an aerosol spray bottle, i.e. they comprise a propellant. The subject-matter of claim 6 is not new in view of D5-D8.
7. The subject-matter of claims 7 and 8 coincides with that of claims 3 and 4, and are thus not novel in view of D1-D4.
8. The compositions of D1-D3 discloses the use of the specific chelating agents of claim 9. The subject-matter of claim 9 is thus not novel.
9. The compositions of D1, D3-D11 are all used as hard surface cleaning compositions. Therefore, claim 12 is not novel.
10. The subject-matter of claim 10 differs from that of D1-D4 in that a propellant is present in the compositions.

The remaining objective problem is therefore to provide an alternative way of dispensing the compositions onto a surface.

Dispensing aqueous liquid cleaning/disinfecting compositions by an aerosol type product is known from D5-D8. The skilled person would therefore without exercising inventive skill use the compositions of D1-D4 in the aerosol type products of D5-D8, i.e. also introduce a propellant in the compositions of D1-D4.

The subject-matter of claim 10 is therefore not inventive in view of the combination of D1-D4 with D5-D8 (Article 33(3) PCT).

11. It is not allowable under Rule 6.2(a) PCT to define the subject-matter of a claim only by references to the description as is done in claim 11. However, none of the cited prior

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art documents discloses a composition which coincides completely with one the examples of the application.

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the applicant is requested to clearly identify the amendments carried out, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see also Rule 66.8(a) PCT).

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

Moreover, the applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT procedure, however minor these may be.

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